



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,809

05/19/2005

Paul Eaton Willett

CASM123585

8339

26389

7590

02/20/2008

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC

1420 FIFTH AVENUE

SUITE 2800

SEATTLE, WA 98101-2347

EXAMINER

FIELDS, DOROND

ART UNIT

PAPER NUMBER

4143

MAIL DATE

DELIVERY MODE

02/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/509,809

**Applicant(s)**

WILLETT, PAUL EATON

**Examiner**

DORON D. FIELDS

**Art Unit**

4143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2004 is/are: a) ☒ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 30 September 2004 and 28 July 2005



**DETAILED ACTION**

***Status of Claims***

1. This action is in reply to the filing of items required for a complete national stage entry application, those items filed on 19 May 2005.
2. Claims 1, 3, 6, 7, 11, 12, 14, 18, 21, 23 have been amended.
3. Claims 1-26 are currently pending and have been examined.

***Information Disclosure Statement***

4. The Information Disclosure Statements filed on 30 September 2004 and 28 July 2005 have been considered. An initialed copy of the Form 1449 is enclosed herewith.

***Drawings***

5. The drawings are objected to because the rectangular boxes shown in Fig 1 do not contain descriptive text labels.
6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

7. Applicant is reminded of the proper content of an abstract of the disclosure.
- a. A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.
- b. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.
- c. Where applicable, the abstract should include the following:
- (1) if a machine or apparatus, its organization and operation;
  - (2) if an article, its method of making;
  - (3) if a chemical compound, its identity and use;
  - (4) if a mixture, its ingredients;
  - (5) if a process, the steps.
- Extensive mechanical and design details of apparatus should not be given.
8. Applicant is reminded of the proper language and format for an abstract of the disclosure.
- d. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means"

and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

e. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

9. The abstract of the disclosure is objected to because:

- The abstract begins with the phrase: "The invention provides".
- The abstract concludes with the sentence "this avoids the partial use of a bag of flour and reduces wastage" which asserts the merits of the invention.

Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1, 2, 4, 7, 8, 9, 12, 13 and 18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claims 1, 2, 4, 12, and 13 recite "full" batches. The term is indefinite; per the specification (page 7, lines 4-5) "batch sizes may be increased or decreased depending upon the capabilities of the machine and/or size of the flour bags". In addition, per the specification (page 3, lines 4-5) "a batch is defined as a single weight of dough produced at one time for baking". Furthermore, the specification (page 7, line 9) defines the no of full batches as "total weight / batch size = no of full batches". Per the definition of number of full batches and data presented in Fig 2, the number of full batches of white hi top =  $440\text{kgs}/80\text{kgs} = 5.5$  full batches. However, Fig 2 states that the number of full batches of white hi top is 5. What is a full batch and how is the number of full batches determined? For the purpose of examination a batch, and hence a full batch, can be of

any weight and the number of full batches is defined by the formula "total weight / batch size = no of full batches"

13. Claim 7 recites the limitation "wherein the number of bakery products is multiplied by a weight of dough required to form a single bakery product, thereby to calculate the total weight of dough for the bakery product". As several types of bakery products are produced, each type having an associated weight, for the purpose of examination, each bakery product type has an associated total weight.
14. Claims 8 and 9 recite the limitation "the batches". There is insufficient antecedent basis for this limitation in the claim.
15. Claim 18 recites the limitation "a computer program according to claim 11" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claim 11 asserts a method. Claim 12 asserts "a computer program for ..." For the purpose of examination the examiner assumes that claim 18's limitation should have stated a computer program according to claim 12.

***Claim Rejections - 35 USC § 101***

16. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
17. Claims 1-11, 12-17, and 21-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non- statutory subject matter.
18. Claim 1 recites a method. A method is a proper statutory category under 35 U.S.C. 101. However, in this claim there is a judicial exception because the content of the method claim is an abstract idea. The steps of the claim are purely theoretical (determining products, calculating weights, and combining weights). Method claims that are abstract ideas may only be deemed statutory subject matter if there is a practical application of the method embodied in the claims. The test for this is whether there is a physical transformation or whether there is a useful, concrete and tangible result. Here the claims do not produce a physical transformation because the steps are accomplished entirely mentally. Further the claims do not produce a useful,

concrete and tangible result. The result of the claims is an aggregation of information. To be useful, a result must have specific, substantial and credible utility. See generally MPEP 2107.01. Here the result of determining products, calculating weights, and combining weights is not concrete because it is not predictable and repeatable. As claimed the method depends on a first determination step in which the result is arbitrary. For the reasons detailed above there is no practical application of the judicial exception. Claims 1-11 are therefore rejected under 35 U.S.C. 101.

19. Claims 12-17 and 21-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program of Claims 12 and 21 is not a process, machine, manufacture, or composition of matter, or any improvement thereof. Replacing computer program with "a computer-executable program tangibly embodied on a computer readable medium" is a suggestion for how to bring this claim into compliance with 35 U.S.C. 101 because "a computer-executable program tangibly embodied on a computer readable medium" is statutory subject matter.

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.



Art Unit: 4143

22. Claims 1-4, 7, 12, 13, 21, and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's own admission found in the specification (hereinafter "AOA") in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production").

**Claim 1, 12, and 21:**

**AOA, as shown, recites the following limitations:**

*Claim 1: A method of producing a production run schedule of bakery products, the method including the steps of:*

*Claim 12: A computer program for scheduling a production run of determined bakery products in predetermined quantities, the program being capable of performing the steps of:*

*Claim 21: A computer program for scheduling a production run of determined bakery products in predetermined quantities, the computer program being in a computer readable form and being capable of performing the steps of:*

- *(Claim 1 and 12) determining bakery products to be produced including a dough type, a weight of dough of each said bakery product and a number of said bakery products to be produced (see at least AOA page 1, lines 9-14);*
- *organizing each bakery product into a group according to the dough type (see at least AOA, page 1, lines 9-12);*

**AOA does not disclose the following limitations, but Rundus et al., however as shown does:**

- *calculating a total weight of dough of each bakery product to be produced (see at least page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so.);*
- *calculating a number of full batches that can be produced of each bakery product (see at least page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so.);*

- *calculating a weight of dough for each bakery product that cannot be produced in a batch comprising a whole number of bags of flour (see at least page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so. Determining the left over is a manner of subtraction.); and*
- *combining the respective weights of dough for bakery products of the same dough type that cannot be produced in a batch comprising a whole number of bags of flour into such a batch (see at least page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so).*

It would have been obvious to one skilled in the art at the time of the invention to combine the recipe scaling taught by Rundus et al. to the bakery production run of AOA as baking requires measuring, calculating, combining and adjusting quantities of raw materials and dough to reach desired yield given constraints of raw materials and available equipment. In addition, it is well known in the culinary arts that recipes can be adjusted to meet either ingredient (e.g., use 10 bags of flour) or yield (e.g., produce 10 loafs of white bread) parameters.

**Claim 2 and 13 and 22:**

**AOA/Rundus et al., as shown, recite the following limitations:**

*Claim 2: A method according to claim 1 (shown above in the rejection of claim 1),*

*Claim 13: A computer program according to claim 12 (shown above in the rejection of claim 12)*

*Claim 22: A computer program according to claim 21 (shown above in the rejection of claim 21),*

- *wherein the combined batches are full batches (see at least Rundus et al. page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so.)*

It would have been obvious to one skilled in the art at the time of the invention to combine the recipe scaling taught by Rundus et al. to the bakery production run of AOA as baking requires measuring, calculating, combining and adjusting quantities of raw materials and dough to reach

Art Unit: 4143

desired yield given constraints of raw materials and available equipment. In addition, it is well known in the culinary arts that recipes can be adjusted to meet either ingredient (*e.g.*, use 10 bags of flour) or yield (*e.g.*, produce 10 loafs of white bread) parameters.

**Claim 3:**

**AOA/Rundus et al., as shown, recite the following limitations:**

*A method according to claim 1 (shown above in the rejection of claim 1),*

- *wherein the schedule is amendable to ensure each batch in the schedule includes a whole number of bags of flour (see at least Rundus et al. page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so).*

It would have been obvious to one skilled in the art at the time of the invention to combine the recipe scaling taught by Rundus et al. to the bakery production run of AOA as baking requires measuring, calculating, combining and adjusting quantities of raw materials and dough to reach desired yield given constraints of raw materials and available equipment. In addition, it is well known in the culinary arts that recipes can be adjusted to meet either ingredient (*e.g.*, use 10 bags of flour) or yield (*e.g.*, produce 10 loafs of white bread) parameters. It would have been obvious to one skilled in the art at the time of the invention to modify production using a conversion factor to ensure that each batch efficiently uses a whole number of a certain ingredient.

**Claim 4:**

**AOA/Rundus et al., as shown, recite the following limitations:**

*A method according to claim 3 (shown above in the rejection of claim 3),*

- *wherein the number of bakery products is amendable to obtain full batches in the schedule (see at least Rundus et al. page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so).*

It would have been obvious to one skilled in the art at the time of the invention to combine the recipe scaling taught by Rundus et al. to the bakery production run of AOA as baking requires

Art Unit: 4143

measuring, calculating, combining and adjusting quantities of raw materials and dough to reach desired yield given constraints of raw materials and available equipment. In addition, it is well known in the culinary arts that recipes can be adjusted to meet either ingredient (e.g., use 10 bags of flour) or yield (e.g., produce 10 loafs of white bread) parameters. It would have been obvious to one skilled in the art at the time of the invention to modify production using a conversion factor to ensure that each batch efficiently uses a certain ingredient or conforms to limitations of the baking equipment.

**Claim 7:**

**AOA/Rundus et al., as shown, recite the following limitations:**

*A method according to claim 1 (shown above in the rejection of claim 1),*

- *wherein the number of bakery products is multiplied by a weight of dough required to form a single bakery product, thereby to calculate the total weight of dough for the bakery product (see at least Rundus et al. page 2, "How-to adjust a recipe using a factor method" and "How-to" determine recipe costing". The reference teaches recipe scaling and the use of the arithmetic - addition, multiplication, and division in doing so.)*

It would have been obvious to one skilled in the art at the time of the invention to combine the recipe scaling taught by Rundus et al. to the bakery production run of AOA as baking requires measuring, calculating, combining and adjusting quantities of raw materials and dough to reach desired yield given constraints of raw materials and available equipment. In addition, it is well known in the culinary arts that recipes can be adjusted to meet either ingredient (e.g., use 10 bags of flour) or yield (e.g., produce 10 loafs of white bread) parameters. It would have been obvious to one skilled in the art at the time of the invention to calculate the total weight of a product by multiplying the weight of an individual item by a conversion factor).

23. Claims 5-6 rejected under 35 U.S.C. 103(a) as being unpatentable over AOA, in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production"), and further in view of Damian et al. (US-PAT-NO: US 5,212,791 A).

**Claim 5:**

**AOA/Rundus et al., as shown, recite the following limitations:**

Art Unit: 4143

*A method according to claim 2 (shown above in the rejection of claim 2),*

**AOA/Rundus et al. do not disclose the following limitations, but Damian et al., however as shown does:**

- *wherein the sequence of batches in the schedule is amendable* (see at least abstract, page 1, paragraph 57, "adjustment of the schedule ... including selective seeding of the schedule").

It would have been obvious to one skilled in the art at the time of the invention to introduce the adjustable schedule of Damian et al. to the method of AOA/Rundus et al. as adjustments to the schedule allow for meeting real-time demand and incorporating the experience of operators.

**Claim 6:**

**AOA/Rundus et al., as shown, recite the following limitations:**

*A method according to claim 1 (shown above in the rejection of claim 1),*

**AOA/Rundus et al. do not disclose the following limitations, but Damian et al., however as shown does:**

- *wherein the bakery products of the same dough type are arranged in consecutive batches* (see at least abstract, page 1, paragraph 57 "the schedule is created to conform with predefined rules to conserve constraints imposed by the machinery to create parts of different specifications").

It would have been obvious to one skilled in the art at the time of the invention to introduce the adjustable schedule of Damian et al. to the method of AOA/Rundus et al. as arranging of similar products in sequential order reduces the time and cost of production.

24. Claims 8-10, 14-16, 23-25 rejected under 35 U.S.C. 103(a) as being unpatentable over AOA, in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production"), and further in view of Bradford (US-PAT-NO: US 6,941,514 B2).

**Claim 8:**

**AOA/Rundus et al. as shown, recite the following limitations:**

*Claim 8: A method according to claim 7 (shown above in the rejection of claim 7),*

*Claim 14: A computer program according to claim 12 (shown above in the rejection of claim 12),*

*Claim 23: A computer program according to claim 21 (above in the rejection of claim 12),*

**AOA/Rundus et al. do not disclose the following limitations, but Bradford however as shown does:**

- *wherein the method further includes displaying the batches, via a computer (claims 14 and 23: wherein the program performs the further step of displaying the batches) to permit subsequent amendment (see at least abstract, page 1, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the adjustable graphical user interface of Bradford to the method of AOA/Rundus et al. as it allows for making changes to a schedule. Per Bradford, abstract, page 1, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system."

**Claims 9, 15, and 24:**

**AOA/Rundus et al. as shown, recite the following limitations:**

*Claim 9: A method according to claim 8 (shown above in the rejection of claim 8),*

*Claim 15/24: A computer program according to claim 14/23 (shown above in the rejection of claim 14/23),*

**AOA/Rundus et al. do not disclose the following limitations, but Bradford however as shown does:**

- *wherein the step of displaying the batches involves displaying the batches graphically (Claims 15/24: wherein the batches are displayed graphically) (see at least abstract, page 1, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the graphical user interface of Bradford to the method of AOA/Rundus et al. as it allows for management and tracking of production. Per Bradford, abstract, page 1, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system."

**Claim 10, 16 and 25:**

**AOA/Rundus et al. as shown, recite the following limitations:**

*Claim 10: A method according to claim 9 (shown above in the rejection of claim 9),*

*Claim 16: A computer program according to claim 15 (shown above in the rejection of claim 16),*

*Claim 25: A computer program according to claim 24 (shown above in the rejection of claim 24),*

**AOA/Rundus et al. do not disclose the following limitations, but Bradford however as shown does:**

- *wherein the graphical display of batches includes graphical identification of bakery products forming the displayed batch (see at least abstract, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the graphical user interface of Bradford to the method of AOA/Rundus et al. as it allows for management and tracking of production. Per Bradford, abstract, page 1, paragraph 57 "A priority-based work order scheduling system includes a graphical user interface having displays for managing work orders stored in the system."

25. Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over AOA, in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production"), and further in view of Jacobs (US-PAT-NO: US 7,168,525 B1).

**Claim 11**

**AOA/Rundus et al. as shown, recite the following limitations:**

*A method according to claim 1 (shown above in the rejection of claim 1),*

**AOA/Rundus et al. do not disclose the following limitations, but Jacobs however as shown does:**

- *wherein the method includes the further step of providing a schematic layout of dough pieces on baking trays or in containers, prior to proving or baking (see at least Figs 1 and 2 and column 7 lines 5-7 "the administrator may select ... to configure a layout of the GUI").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the graphical user interface of Jacobs to the method of AOA/Rundus et al. as it will provide a user with an image of the product to be produced. As the system administrator can configure the layout of the GUI, the administrator can produce a visual display associated with each product. Such display can include a layout associated with a product type. A display that shows both a product type and desired layout will make it easier for operators to identify the product being made and provide them with a guideline as to how to arrange the desired product during production.

26. Claims 17 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over AOA, in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production"), in view of Bradford (US-PAT-NO: US 6,941,514 B2), and further in view of Jacobs (US-PAT-NO: US 7,168,525).

**Claim 17 and 26:**

**AOA/Rundus et al./Bradford as shown, recite the following limitations:**

*Claim 17: A computer program according to claim 16 (shown above in the rejection of claim 16),*

*Claim 26: A computer program according to claim 25 (shown above in the rejection of claim 25),*

**AOA/Rundus et al./Bradford do not disclose the following limitations, but Jacobs however as shown does:**

- *Wherein the program provides a schematic layout of dough pieces on baking trays or in containers, prior to proving or baking (see at least Figs 1 and 2 and column 7 lines 5-7 "the administrator may select ... to configure a layout of the GUI").*

It would have been obvious to one skilled in the art at the time of the invention to introduce the graphical user interface of Jacobs to the method of AOA/Rundus et al./Bradford as it will provide a user with an image of the product to be produced. As the system administrator can configure the layout of the GUI, the administrator can produce a visual display associated with each product. Such display can include a layout associated with a product type. A display that shows both a product type and desired layout will make it easier for operators to identify the product being made and provide them with a guideline as to how to arrange the desired product during production.



Art Unit: 4143

27. Claims 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler et al. (US-PAT-NO: US 5,472,273 A), in view of AOA, and further in view of Rundus et al. (Rundus et al. "Steps to Easier Quantity Food Production).

**Claim 18:**

**Fowler et al., as shown, recites the following limitations:**

*A baking system including:*

- *a computer with memory* (see at least abstract, paragraph 57 "a system determines the development status of a mass such as bread dough in a powered mixer ... the preferred apparatus includes a monitor ... coupled with a computer with a computer for determining the variables and applying the rules stored in computer memory"); *and*
- *a computer program* (see at least column 4, lines 24-26 "computer 48 is programmed using conventional techniques to perform the functions ...")

**Fowler et al. does not disclose the following limitations, AOA/Rundus et al. however as shown does:**

- *a computer program according to claim 11* (see above in the rejection of claim 11).

It would have been obvious to one skilled in the art at the time of the invention to automate the method of AOA/Rundus et al. by using a computer as described by Fowler et al. as automation can increase process efficiency, reduce human error, allow for process feedback, and allow for process tracking and generation of related reports.

**Claim 19:**

**Fowler et al./AOA/Rundus et al., as shown, recites the following limitations:**

*A baking system according to claim 18* (shown above in the rejection of claim 18),

- *wherein the system includes baking machinery linked to the computer for control thereby* (see at least Fowler et al. abstract, paragraph 57 "a system determines the development status of a mass such as bread dough in a powered mixer ... the preferred apparatus includes a monitor ... coupled with a computer with a computer for determining the variables and applying the rules stored in computer memory").

Art Unit: 4143

**Claim 20:**

**Fowler et al./AOA/Rundus et al., as shown, recites the following limitations:**

*A baking system according to claim 19 (shown above in the rejection of claim 19),*

- *wherein the baking machinery provide feedback to the program (see at least Fowler, column 5, lines 62-67 "the mixing process is continuously evaluated in real time as the dough progresses through the various development stages and outputs are provided indicating the development status of the dough and recommending any corrective action that may be needed"), the feed back comprising any one or more of the following:*
  - *ingredients mixing and loading times expressed as a machine efficiency;*
  - *individual batch mixing times;*
  - *total mixing time (see at least Fowler et al. column 1, lines 66-67 through column 2, lines 1-5 "The preferred apparatus includes a powered mixer, a power monitor coupled with the mixer for sensing the instantaneous power delivered thereto, and a controller coupled with the monitor for determining the elapsed mixing time, for deriving a set of qualitative variables, and for determining whether these variables satisfy predetermined conditions stored in memory);*
  - *total lead time;*
  - *total time to produce a production run;*
  - *failed production; and*
  - *amendments made to the production run.*

***Conclusion***

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
- Lowry et al (PGPUB-NO: US 2002/0001649 A1) discloses methods and systems for automatically extruding and cutting dough-based products having pre-selected weights.
  - Goodmanson (PGPUB-NO: US 2002/0136813 A1) discloses apparatus and method for continuous rework fermentation.

Art Unit: 4143

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Doron D. Fields** whose telephone number is **571.270.3107**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JAMES A. REAGAN** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314.

/Doron D Fields/Examiner, Art Unit 4143  
February 14, 2008  
/James A. Reagan/Supervisory Patent Examiner, Art Unit 4143